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SUBJECT: SEVEN SUSPECTS CLEARED OF MOST SERIOUS CHARGES IN SWITZERLAND'S FIRST AL-QAIDA TRIAL

Classified By: Poloff Eric Lundberg, Reasons 1.4 b/d

1.(C) The Swiss Federal Criminal Court acquitted seven suspected terrorist facilitators of membership in Al Qaida, though six were found guilty of immigration violations. Given time already served in pre-trial detention, all suspects were allowed free, with defendants receiving up to \$76,000 in compensation. The case involved several Muslim immigrants suspected of supplying false documentation to Al Qaida terrorists, including Cole-bomber Abdullah al-Rimi. The main defendant, Abdulhamid al Fayek, admitted to having contact with al-Rimi, but denied any membership in Al Qaida. The defense also tried to cast doubt on al-Rimi's involvement in Al Qaida, and charged that al-Rimi -- by nature of his incarceration in Yemen (until his 2006 escape) -- had been a victim of torture, thus tainting any evidence Swiss investigators might have acquired from Yemen.

2.(C) In its decision, the court focused on the difficulty of establishing whether the suspects activities and other links (such as cell phone and text message contacts with al-Rimi and perpetrators of the Riyadh bombings) could comprise "membership in a criminal organization," given Al Qaida's amorphous organizational structure. The Swiss legal code lacks a charge equivalent to conspiracy before the fact, leaving membership in a criminal organization the most serious charge available for Swiss prosecutors. Six of the defendants were found guilty of smuggling several dozen Yemenis into Switzerland and providing false identity documents between 1998 and 2004.

3.(C) The Swiss Attorney General's office and Federal Criminal Police expressed disappointment with the court's ruling, but there was little surprise, given the constraints in the law. Legatt cooperated with the Swiss investigation, most substantially providing an FBI media exploitation team to review electronic evidence. Swiss investigators recently told Legatt that this assistance had been helpful.

4.(C) Following are the names and nationalities of the seven suspects:

-- Abdulhamid al-Fayek	Yemen
-- Jabr Rajeh Hassan al-Said	Yemen
-- Said Ahmed Mohamed Taleb el-Hariri	Yemen
-- Abdulhaim al-Hakim	Yemen
-- Mareb Albaiyati	Iraq
-- Assad Hizam al-Fayek	Yemen

-- Omar Amin

Somalia

End list of suspects.
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